

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,
Plaintiff-Respondent,

v.

MICHAEL W. ALCOTT
Defendant-Petitioner

Criminal No: 04CR-10286-PBS

PETITIONER'S MOTION FOR AN EXTENSION
OF TIME TO FILE THE PETITION UNDER 28 U.S.C. SECTION 2255

The Petitioner, Michael W. Alcott, appearing in pro se, and respectfully moves the Honorable Court, pursuant to Federal Rule of Civil P.3, "Commencement of Action", under the rules governing section 2255, and respectfully request an extension of 90 days to file the petition in this court. In support thereof are:

(a) The Petitioner was sentenced on March 30, 2006 in this court, stemming from a guilty plea to counts 1s, 2s, 3s and 4s for conduct in violation of Title 18 U.S.C. Sections 1344, Bank Fraud, 1014, False Statements and 1952, Travel Act; and

(b) The Petitioner's initial petition is due on, or around, February 9, 2008(see attached final Judgement U.S. Court of Appeals dated February 9, 2007).; and

11/30/07
Dated & Signed
Served

(c) Principles of equitable tolling avoid these difficulties, since equitable tolling obviates the 1 year statutory limitation needed(immediate) filing. Moreover, it permits the criminal petitioner to "winnow the constitutional wheat from chaff, for good cause and exusable neglect, comparable to the equitable tolling principles in place." See Allen v. McCurry, 449 U.S. 90, 95-96, 101 S. Ct. 411, 66 L. Ed 2d 308(1980); see also Walker v. Armco Steel Co., 446 U.S. 740 (1980). Accordingly the period sought for the adequate and effective preparation is imminent upon a judicious consideration in part of the court found to be fair and cognitive for substantial justice; and

(d) Defendant is being delayed in his attempts to extract case file from previous defense counsel, Kevin L. Barron Esq. This case file is needed for the defendant to be able to complete adequate and effective research and preparation. (see attached letter to Attorney Kevin L. Barron dated October 5, 2007);and


(e) U.S. Bureau of Prisons has recently designated the defendant to finally be moved to Minnesota. It is anticipated that this move to FCI-Waseca will take 1-2 months away from the defendant's preparation time.

WHEREOF, the Petitioner, Michael W. Alcott, respectfully prays that the Court grants the Motion for an extension of time and toll the Statutory principles articulated in Title 28 U.S.C. Section 2255.

Submitted under the penalty of perjury to be true and correct.
28 U.S.C. Section 1746.

Dated: 11/20/07

Respectfully yours,



Michael W. Alcott
25301-038 C-2
USP Canaan
P.O. Box 300
Waymart, PA 18472